IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3011 OF 2007

Shri Isaq Babalal Attar. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

A.B.Vagyani for the applicant.

U.V.Nikam, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 27th September 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. By this application under section 439 of Code of Criminal Procedure, the applicant is seeking bail in connection with Session Case No.61/2007 arising out of CR.No.24/2007 registered with Vadgaon Police Station, taluka- Hatkanangale, district- Kolhapur for the offences punishable under section 302 of Indian Penal Code (I.P.C.).

3. The prosecution case is that, on 9th March, 2007, applicant- accused with his friends including

deceased Hasan Mulla went to hotel "Pratik Raj", situated on Poona Bangalore Highway within the limits of village Vathar for taking meals. When they were taking meals in the said hotel the quarrel took place between the applicant and deceaed Hasan Mulla on the point of items of meals. Therefore, applicant got annoyed so he picked up a Beer bottle and forcibly hit it on the head of the deceased, due to which the deceased sustained grievous injuries on his head. Thereafter, the applicant was driven away from said hotel. During that night the deceased slept at the house of his one of the friends, namely, Subhash Babaso Jadhav, however, on the next day morning at about 6 a.m. he was found dead. So the mother of the deceased lodged F.I.R. with Vadgaon Police Station.

4. The learned counsel for the applicant submits that, at the most, this would be an offence punishable under section 304 Part-II of I.P.C. He further submits that looking to the nature of allegations made and the place where the incident occurred, hardly any further investigation would be necessary. The investigation is almost complete. Chargesheet has already been filed. In that view of the matter, the applicant is entitled to bail.

5. The learned A.P.P., appearing for the State, tried to opposed this application for bail. However, he could not justify continuation of jail custody of the present applicant. In these circumstances of the case, I am inclined to grant bail to the applicant, subject to the following conditions:

(a) The applicant, arrested in connection with CR.No.24/2007 registered with Vadgaon Police Station, taluka- Hatkanangale, district- Kolhapur shall be enlarged on bail in the sum of Rs.25,000/- with one or two sureties to make up the said amount.

(b) The applicant shall report to the concerned Police Station once in a week, i.e. on every Monday between 3.00 to 5.00 p.m. till conclusion of the trial.

(c) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential

address thereafter till the conclusion of trial without prior intimation to the investigating officer.

(d) The applicant shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(e) The applicant shall co-operate with the investigating agency for disposal of the case. It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

(f) Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

6. Application stands disposed of accordingly.

JUDGE